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6 **IN THE UNITED STATES DISTRICT COURT**  
7 **FOR THE DISTRICT OF ARIZONA**  
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9 Telly Onturio Beasley,

10 Petitioner,

11 v.

12 Charles L Ryan, et al.,

13 Respondents.  
14

No. CV-18-02680-PHX-RCC

**ORDER**

15 On November 25, 2019, Magistrate Judge D. Thomas Ferraro issued a Report and  
16 Recommendation (“R&R”) in which he recommended the Court dismiss Petitioner Telly  
17 Onturio Beasley’s Petition Under 28 U.S.C. § 2254 for a Writ of Habeas Corpus by a  
18 Person in State Custody (Non-Death Penalty) (“Petition”). (Doc. 12.) The R&R notified  
19 the parties they had fourteen (14) days from the date of the R&R to file any objections.  
20 No objections have been filed. However, on December 23, 2019, Petitioner filed a Notice  
21 of Appeal from a Judgment or Order of a United States District Court. (Doc. 13.)

22 There is no final decision to appeal in this matter. *See* 28 U.S.C. § 1291 (appellate  
23 court’s jurisdiction is over final district court decisions). Therefore, an interlocutory  
24 appeal is not appropriate. *See* 28 U.S.C. § 1292. “An attempt to appeal a nonfinal  
25 decision of a district court remains just that, an attempt; it is a nullity and does not divest  
26 the trial court of its jurisdiction.” *Century Laminating, Ltd. v. Montgomery*, 595 F.2d 563,  
27 567 (10th Cir. 1979). Therefore, an “application for an appeal . . . shall not stay  
28 proceedings in the district court unless the district judge or the Court of Appeals or a

1 judge thereof shall so order.” 28 U.S.C. § 1292(b).

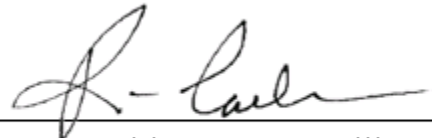
2 Petitioner’s appeal does not relieve him from complying with the Magistrate  
3 Judge’s order requiring Petitioner file objections within two weeks. (Doc. 12.) No  
4 objections were filed in this case and Petitioner’s premature appeal to the Ninth Circuit  
5 does not prevent the Court from making rendering judgment in this matter.

6 If neither party objects to a magistrate judge’s report and recommendation, the  
7 District Court is not required to review the magistrate judge’s decision under any  
8 specified standard of review. *Thomas v. Arn*, 474 U.S. 140, 150 (1985). However, the  
9 statute for review of a magistrate judge’s recommendation “does not preclude further  
10 review by the district judge, *sua sponte* or at the request of a party, under a *de novo* or  
11 any other standard.” *Id.* at 154.

12 The Court has independently reviewed the Petition (Doc. 1), Respondent’s Answer  
13 (Doc. 11), and Judge Ferraro’s R&R (Doc. 12). The Court finds the R&R well-reasoned  
14 and agrees with Judge Ferraro’s conclusions.

15 IT IS ORDERED the R&R is ADOPTED (Doc. 12) and Telly Onturio Beasley’s  
16 Petition for Writ of Habeas Corpus Pursuant to 28 U.S.C. § 2254 by a Person in State  
17 Custody (Non-Death Penalty) is DENIED (Doc. 1). The Clerk of Court shall docket  
18 accordingly and close the case file in this matter.

19 Dated this 30th day of December, 2019.

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24 Honorable Raner C. Collins  
25 Senior United States District Judge  
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